

Message Text

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S E C R E T SANTIAGO 5965

EXDIS

EO 11652: GDS

TAGS: CI, UN, PFOR

SUBJ: COPPER COMPENSATION -- COMPANY LAWSUITS

REF: SANTIAGO 5884

1. SUMMARY: GOC REQUESTS DEPARTMENT ASK ANACONDA AND KENNECOTT TO CONTINUE REFRAIN FROM PRESSING THEIR LAWSUITS AGAINST GOC BEYOND END DECEMBER. I PROMISED TRANSMIT REQUEST BUT URGED GOC MAKE REQUEST DIRECTLY TO COMPANIES. END SUMMARY.

2. RAUL SAEZ TELEPHONED ME AT NOON TODAY, DEC 5, TO SAY THAT AMB HEITMANN HAS BEEN INTENDING TO ASK THE

DEPARTMENT TO INTERCEDE WITH ANACONDA AND KENNECOTT TO ASK THEM TO WITHHOLD THE RESUMPTION OF LEGAL ACTION AGAINST THE GOC BEYOND THE END OF DECEMBER. SAEZ ASKED ME TO REPORT FURTHER ON THIS MATTER TO THE DEPT. SAEZ SAID THAT JULIO PHILIPPI IS HARD AT WORK PREPARING HIMSELF FOR THE NEGOTIATIONS WITH THE COMPANIES. HOWEVER, BARRING A NEW DECISION BY THE COMPANIES, THEY CAN BE EXPECTED TO PURSUE THEIR LAWSUITS AGAINST THE GOC AS OF THE END OF DECEMBER. IF THE GOC MUST PROCEED ON THAT EXPECTATION, INEVITABLY MUCH OF PHILIPPI'S EFFORT MUST BE DIVERTED FROM PREPARATIONS FOR THE NEGOTIATIONS TO PREPARATIONS FOR GOC DEFENSE AGAINST THESE LEGAL ACTIONS. SAEZ SAID THE GOC CONFRONTS MANY COMPLEX LEGAL PROBLEMS IN PREPARING TO CONDUCT TALKS WITH THE COMPANIES INCLUDING A CONSTITUTIONAL QUESTION ABOUT THE ABILITY OF THE GOC TO ENGAGE IN DIRECT NEGOTIATIONS WITH THE COMPANIES. HE SAID
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THIS MATTER IS BEING STUDIED IN DETAIL AND A SOLUTION WILL BE FOUND. NEVERTHELESS, THE GOC IS VERY ANXIOUS THAT PHILIPPI NOT RPT NOT BE DIVERTED FROM PREPARATIONS FOR NEGOTIATIONS WITH THE COMPANIES BY EFFORTS TO PREPARE THE GOC'S LEGAL DEFENSE. SAEZ

ASKED ME IF USG COULD REQUEST COMPANIES TO EXTEND MORATORIUM ON COURT ACTIONS.

3. I TOLD SAEZ I WOULD TRANSMIT THE GOC REQUEST, BUT IN ALL FRANKNESS, I THOUGH THE DEPT WOULD HAVE GREAT DIFFICULTY IN ACCEDING TO IT. SAEZ SAID HE UNDERSTOOD OUR RELUCTANCE TO INTER- VENE, BUT THE GOC HAD FELT AT LIBERTY TO REQUEST THIS ASSISTANCE OF THE USG INASMUCH AS ALL PREVIOUS CONVERSATIONS ON THIS SUBJECT WITH THE PREVIOUS GOVT HAD BEEN IN GOVERNMENT-TO-GOVERNMENT CHANNELS. WHILE THE GOC INTENDS TO TREAT DIRECTLY WITH THE COMPANIES, IT NEVERTHELESS WOULD GREATLY APPRECIATE USG ASSISTANCE IN THIS INSTANCE.

4. I TOLD SAEZ I COULD UNDERSTAND THAT VIEW BUT IT WAS STILL MY PERSONAL OPINION THAT A DIRECT COMMUNICATION FROM THE GOC TO THE COMPANIES TO THIS EFFECT WOULD BE MUCH BETTER. SAEZ SAID THAT THE GOC HAD A DDIFFICULTY IN THAT THE COMPANIES ARE NOT REPRESENTED IN SANTIAGO BY ANYONE OF SUFFICIENT STATURE TO DEAL EFFECTIVELY WITH A REQUEST OF THIS KIND. I REMARKED THAT THE COMPANIES COULD BE APPROACHED DIRECTLY IN THE U.S. BY CHILEAN REPRESENTATIVES THERE. SAEZ INDICATED HE THOUGHT THERE MIGHT BE SOME DIFFICULTY WITH THAT PROCEDURE. I THEREUPON SAID THAT IF THE GOC FELT IT WOULD NOT BE APPROPRIATE FOR ITS REPRESENTATIVES IN THE UNITED STATES TO APPROACH THE COMPANIES, I WOULD STRONGLY RECOMMEND A TELEX DIRECTLY FROM THE GOC TO THE COMPANIES, EXPLAINING THE SITUATION, AND ASKING FOR FURTHER PATIENCE ON THEIR PART. SAEZ SAID HE WOULD GIVE SERIOUS CONSIDERATION TO THE VIEWS I HAD EXPRESSED AND OPINED THAT PERHAPS THE GOC COULD INDEED COMMUNICATE DIRECTLY WITH THE COMPANIES ON THIS SUBJECT.

5. COMMENT: I BELIEVE IT IS IN OUR INTEREST THAT THE COMPANIES NOT RPT NOT PURSUE THEIR SUITS FOR THE TIME BEING. SAEZ'S REASON IS A GOOD ONE: IT IS DESIRABLE THAT PHILIPPI NOT BE DISTRACTED FROM PREPARATIONS FOR THE TALKS WITH THE COMPANIES. THERE IS ALSO ANOTHER EQUALLY IMPORTANT REASON: RENEWAL OF THE LAWSUITS COULD VERY WELL CREATE POLITICAL BACKLASH HERE AS THE NEWS REACHES CHILE THROUGH WIRE SERVICE REPORTS. A CHILEAN GOVERN-
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MENT REQUIRED FOR POLITICAL REASONS TO MAKE SOME SORT OF HARD STATEMENT ABOUT THE ACTIONS OF THE COMPANIES DETRIMENTAL TO CHILEAN INTERESTS WOULD NOT BE A CHILEAN GOVERNMENT IN THE BEST POSITION TO INAUGURATE DIRECT AND FRUITFUL TALKS WITH THE COMPANIES.

6. ALL THIS BEING SAID, I CONTINUE TO BELIEVE GOC SHOULD CON- TACT THE COMPANIES DIRECTLY ON THIS MATTER. ONCE GOC HAS DONE SO, I THINK IT WOULD BE APPROPRIATE AND DESIRABLE FOR THE DEPT TO CONTACT THE COMPANIES CONCERNING THEIR REACTION AND BE SUPPORTIVE OF THE GOC REQUEST IF THAT SEEMS NECESSARY.
THOMPSON

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